

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO

IN RE:	)	CASE NO. 13-40435-KW
	)	
LYNDA KAY BARNETT	)	JUDGE KAY WOODS
CARL AUSTIN BARNETT	)	
Debtor	)	CHAPTER 7
*****	)	
ANDREW W. SUHAR, Chapter 7 Trustee	)	Adversary Proceeding No.
29 East Front Street, 2 <sup>nd</sup> Floor	)	
P.O. Box 1497	)	
Youngstown, Ohio 44501-1497	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
CAROL L. RATKOVICH	)	<u>COMPLAINT</u>
6547 Justison Road	)	
East Palestine, Ohio 44413	)	<u>FOR DETERMINATION OF</u>
	)	<u>VALIDITY, PRIORITY AND</u>
and	)	<u>EXTENT OF LIENS,</u>
	)	<u>ENCUMBRANCES AND OTHER</u>
LARRY E. BRITTON	)	<u>INTERESTS; SALE OF</u>
610 10 <sup>th</sup> Street	)	<u>PROPERTY PURSUANT TO</u>
Selinsgrove, Pennsylvania 17870	)	<u>U.S.C. §363(h)</u>
	)	
and	)	
	)	
INTERNAL REVENUE SERVICE	)	
PO Box 7346	)	
Philadelphia, Pennsylvania 19101-7346	)	
	)	
and	)	
	)	
OHIO DEPARTMENT OF TAXATION	)	
Attn: Bankruptcy Division	)	
PO Box 530	)	
Columbus, Ohio 43216-0530	)	
	)	
and	)	

STATE OF OHIO, OFFICE OF THE )  
ATTORNEY GENERAL )  
Collection Enforcement Section )  
Attn: Bankruptcy Staff )  
150 E. Gay Street, 21<sup>st</sup> Floor )  
Columbus, Ohio 43215 )  
Defendants. )

NOW COMES Plaintiff, Andrew W. Suhar, and for his Complaint alleges as follows:

1. This Court has jurisdiction over these proceedings pursuant to the provisions of 28 U.S.C. §1334, 28 U.S.C. §157 and 11 U.S.C. §363; this matter is a core proceeding as defined by 28 U.S.C. §157(b)(2)(K) and (N).

### **Background**

2. The within bankruptcy proceeding commenced by the filing of a voluntary petition under Chapter 7 of the Bankruptcy Code on March 7, 2013. Plaintiff is the duly appointed, qualified and acting Chapter 7 Trustee in this proceeding

### **COUNT I**

#### **Determination of Validity, Priority and Extent of Liens, Encumbrances and Other Interests**

3. The within bankruptcy estate has an undivided 1/3 interest in the real estate located at 5386 Jimtown Road, East Palestine, Columbiana County, Ohio having the parcel ID number 6700098000 (the "Real Estate") (Exhibit "A").

4. To the best of Plaintiff's knowledge and belief the liens encumbering the Real Estate are as follows: Notice of Federal Tax Lien in the amount of \$38,739.73 filed for record on June 27, 2011 and recorded in ORV 1803, Page 9333, Columbiana County Records; Notice of Federal Tax Lien in the amount of \$44,689.72 filed for record on May 12, 2012 and recorded in ORV 1878, Page 2, Columbiana County Records; Notice of Federal Tax Lien in the amount of \$2,678.52 filed for record on October 10, 2012 and recorded in ORV 1912, Page 987, Columbiana County Records; judgment lien in favor of State of Ohio

Department of Taxation recorded on November 9, 2012 in the amount of \$1,863.44 and any other amount due thereunder; judgment lien in favor of State of Ohio Department of Taxation recorded on January 18, 2013 in the amount of \$4,660.00 and any other amount due thereunder; judgment lien in favor of State of Ohio Department of Taxation recorded on January 18, 2013 in the amount of \$6,150.99 and any other amount due thereunder; judgment lien in favor of State of Ohio Department of Taxation recorded on January 18, 2013 in the amount of \$6,247.10 and any other amount due thereunder; judgment lien in favor of State of Ohio Department of Taxation recorded on January 18, 2013 in the amount of \$2,901.47 and any other amount due thereunder; judgment lien in favor of State of Ohio Office of the Attorney General recorded on February 13, 2009 in the amount of \$158,273.04 and any other amount due thereunder (See Exhibit "B" – title report).

5. Defendants Carol L. Ratkovich and Larry E. Britton may claim an undivided 2/3 interest in the Real Estate.

6. The Defendants named herein must answer and affirmatively set forth their interest in the Real Estate or be forever barred from asserting any claim, interest, lien, encumbrance or otherwise in the Real Estate, or the proceeds to be received therefrom.

7. Plaintiff seeks the determination of validity, priority and extent of all liens, encumbrances and other interests.

## **COUNT II**

### **Sale of the Real Estate**

8. Plaintiff restates and reavers the allegations contained in Paragraphs 1 through 7 as if fully rewritten herein.

9. The within bankruptcy estate has an undivided 1/3 interest in the Real Estate.

10. Chapter 7 administrative costs have a priority in the sale proceeds superior to Defendants Internal Revenue Service, State of Ohio Department of Taxation and State of Ohio Office of the Attorney General pursuant to 11 U.S.C. §724(b).

11. Plaintiff seeks judgment pursuant to 11 U.S.C. §363(h) granting authority to Plaintiff to sell the Real Estate in fee simple with 2/3 of the net proceeds (proceeds after all costs associated with the sale of the Real Estate) being paid to Defendants Carol L. Ratkovich and Larry E. Britton.

WHEREFORE, Plaintiff, Andrew W. Suhar, Chapter 7 Trustee, prays the Court enter judgment as follows:

- a. AS TO COUNT I: For judgment determining the validity, priority and extent of all liens, encumbrances and other interests relating to the Real Estate;
- b. AS TO COUNT II: Authorizing the sale of the Real Estate, in fee simple; and
- c. FOR COUNTS I AND II: Such other relief that Court deems appropriate in these circumstances.

Respectfully submitted,

/s/ Andrew W. Suhar

ANDREW W. SUHAR, ESQ. Reg. No. 0058419

Attorney for Plaintiff

29 East Front Street, 2<sup>nd</sup> Floor

P.O. Box 1497

Youngstown, Ohio 44501-1497

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## Columbiana County Auditor

generated on 2/26/2014 1:25:16 PM EST

## Summary

Parcel ID	Address	Index Order	Card
6700098000	5386 JIMTOWN RD	Street Address	1 of 1

Summary			
Property Location	5386 JIMTOWN RD	No. of Stories	1.00
Tax District	67 UNITY TWP-E PALESTINE CSD	Finished Square Footage	1223
Account Number	67-00X36.066000	Year Built	1872
Land Use	510 1 Fam Dwlg Lot	Total Rooms	4
Neighborhood	10101 UNITY TWP GENERAL	Bedrooms	2
School District	1505 EAST PALESTINE CSD	Full Bathrooms	1
Acres	1.000	Half Bathrooms	0

Legal Description  
 Property Information  
 1 8 36 SE NW 1/4 (5386  
 JIMTOWN RD) 1.00A

Owner Information  
 Owner Information  
 RATKOVICH CAROL L @ (3)  
 5386 JIMTOWN RD  
 EAST PALESTINE, OH 44413 USA

Taxpayer Name and Address  
 C/O LYNDIA BARNETT  
 5318 JIMTOWN RD  
 EAST PALESTINE, OH 44413 USA

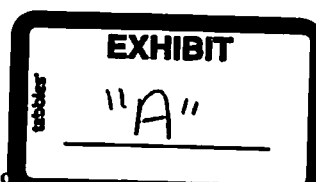
Assessment Info			
Board of Revision	No	Mkt Land Value	\$17,500
Homestead/Disability	No	Cauv Value	\$0
2.5% Reduction	No	Mkt Improvement Value	\$26,100
Divided Property	No	Total Value	\$43,600
New Construction	No		
Foreclosure	No	Annual Taxes	\$552.04
Other Assessments	No	Taxes Paid	\$0.00
Front Ft.	0.00		

Recent Sale			
Valid Sale	No	Sale Date	9/4/2009
No. of Parcels	1	Conveyance No.	
Deed Type	EX-EXEMPT	Deed Number	6004
Sale Amount	\$0		

Other notes

User ID : ohcolumbianacountyauditorquest

Data updated on 2/25/2014



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**PRESENT OWNERS SEARCH**

To: Attorney Andrew W. Suhar  
Mariruth Stewart  
P.O. Box 1497  
Youngstown OH 44501  
Fax: (330) 744-5857

File No. 13-20127

**PROPERTY ADDRESS:** 5386 Jintown Road  
East Palestine, OH 44413

The undersigned certifies that I have examined the records of Columbiana County from July 23, 1943 through May 1, 2013 at 7:59AM, and in my opinion, the fee simple title to the premises described in attached Exhibit A is in:

**Carol L. Ratkovich, Larry E. Britton and Lynda K. Barnett  
Acquired by Affidavit of Survivorship from Virginia Britton**

Previous Deed reference: ORV 517, Page 01 and ORV 1701, Page 479,  
Columbiana County Records:

Subject to the following exceptions and comments:

1. A Notice of Federal Tax Lien filed against Carl A. Barnett and Lynda K. Barnett in the amount of \$38,739.73, filed for record on June 27, 2011, @ 9:20:39 a.m. and recorded in ORV 1803, Page 933, Columbiana County Records.
2. A Notice of Federal Tax Lien filed against Carl A. Barnett and Lynda K. Barnett in the amount of \$44,689.72, filed for record on May 7, 2012, @ 9:33:27 a.m. and recorded in ORV 1878, Page 2, Columbiana County Records.
3. A Notice of Federal Tax Lien filed against Carl A. Barnett and Lynda K. Barnett in the amount of \$2,678.52, filed for record on October 10, 2012, @

Daniel J. Mumaw  
Attorney at Law  
7178 West Boulevard  
Youngstown, OH 44512  
(330) 629-8860  
Fax (330) 629-2480



8:55:23 a.m. and recorded in ORV 1912, Page 987, Columbiana County Records.

**4. A Judgment, a certified copy of which was recorded November 9, 2012.**

**Court:** Court of Common Pleas of Columbiana County  
**Case No:** 2012 SJ 02637  
**Debtor:** Carl A. Barnett and Lynda  
**Creditor:** State of Ohio Department of Taxation  
**Amount:** \$1,863.44 and any other amounts due thereunder.

**5. A Judgment, a certified copy of which was recorded January 18, 2013 in Judgment Lien Docket 102.**

**Court:** Court of Common Pleas of Columbiana County  
**Case No:** 2013 SJ 00109  
**Debtor:** Carl A. Barnett and Lynda  
**Creditor:** State of Ohio Department of Taxation  
**Amount:** \$4,660.99 and any other amounts due thereunder.

**6. A Judgment, a certified copy of which was recorded January 18, 2013.**

**Court:** Court of Common Pleas of Columbiana County  
**Case No:** 2013 SJ 00131  
**Debtor:** Carl A. Barnett and Lynda  
**Creditor:** State of Ohio Department of Taxation  
**Amount:** \$6,150.99 and any other amounts due thereunder.

**7. A Judgment, a certified copy of which was recorded January 18, 2013.**

**Court:** Court of Common Pleas of Columbiana County  
**Case No:** 2013 SJ 00133  
**Debtor:** Carl A. Barnett and Lynda  
**Creditor:** State of Ohio Department of Taxation  
**Amount:** \$6,247.10 and any other amounts due thereunder.

**8. A Judgment, a certified copy of which was recorded January 18, 2013.**

**Court:** Court of Common Pleas of Columbiana County  
**Case No:** 2013 SJ 00136  
**Debtor:** Carl A. Barnett and Lynda  
**Creditor:** State of Ohio Department of Taxation  
**Amount:** \$2,901.47 and any other amounts due thereunder.

9. A Judgment, a certified copy of which was recorded February 13, 2009 in Volume 79, Page 09SJ370.

Court: Court of Common Pleas of Columbiana County  
Case No: 09 SJ 370  
Debtor: Virginia Britton  
Creditor: State of Ohio Office of the Attorney General  
Amount: \$158,273.04 and any other amounts due thereunder.

10. Notwithstanding the reference to acreage or square footage in the description set forth in Schedule A hereof, this policy does not insure nor guarantee the acreage or quantity of land set forth therein.
11. Subject to the rights of the public and others, by use or otherwise, in and to any portion of the Land lying within a publicly dedicated highway, road, street or alley.
12. Anything to the contrary notwithstanding, this Policy does not insure the accuracy of dimensions recited within the description of premises described in Schedule A.
13. This is a lien search only, and no examination was made for easements, conditions, reservations, leases, rights of way, covenants and restrictions affecting the described premises.
14. Notwithstanding the reference to the addresses of the buildings as set forth in this Present Owner's Search, this Present Owner's Search does not make an opinion as to location of the buildings on the property or any encroachments therefrom.
15. Description contained in Schedule A does not meet current Columbiana County conveyance standards. Survey may be required on subsequent transfers.
16. Taxes on the 2012 Treasurer's tax duplicate are in the name of Carol L. Ratkovich et al.

**Parcel No. 67-00098.000**

**Assessed Values: Land \$6,300 Improvements \$9,420 Total \$15,720**

**1<sup>st</sup> half 2012 taxes-\$ 283.53-pd., late chg of \$28.35 additional interest & penalty may be due**

**2<sup>nd</sup> half 2012 taxes - \$ 283.53- a lien, not yet due and payable**

**Note: Above taxes include an amount for special assessments.**



Taxes for the second half of 2012 and thereafter are a lien, not yet due or payable.

No examination has been made for special assessments not appearing on the Treasurer's current tax duplicate. Delinquent utility charges, weed cutting and waste removal charges may become a lien on the subject real estate.

NOTE: Taxes or assessments may be approved, levied or enacted by the State, County, Municipality, Township, or similar taxing authority, but not yet certified to the tax duplicate of the County in which the land is situated, including retroactive increases in taxes or assessments resulting from any retroactive increase in the valuation of the land by the State, County, Municipality, Township or other taxing authority.

**OTHER EXCEPTIONS AND COMMENTS:**

This real estate lien report provides specific factual information as of the date indicated herein based on a search of the Columbiana County Records. This report contains information found in the instruments indexed under the name(s) of the grantee(s) only since the date of the instrument set forth above as the previous deed reference. The Company specifically limits its liability with respect to the accuracy of this report to a maximum of Three Thousand Dollars (\$3,000.00). This report does not include information prohibited by FCRA, and is being issued solely as a limited information report in connection with the real estate herein described.

This examination was made May 1, 2013, at 7:59AM.



Mumaw Title Agency, Inc.  
Daniel J. Mumaw, Attorney at Law

## **EXHIBIT A**

**File: 13-20127**

**Situated in the Township of Unity, County of Columbiana, and State of Ohio, and known as a part of the South half of the Northwest quarter of Section 36, Township 8, Range 1 and bounded and described as follows, to-wit: Beginning at the Northwest corner of land owned by John Frankland and wife, said corner being 22½ rods North of the South line of said Northwest quarter, thence North 14.83 rods to the South line of lands now owned by said grantors; thence East 10.79 rods to a corner, thence South 14.83 rods to a corner; thence West 10.79 rods to the place of beginning, containing One (1) acre of land.**